

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A. C., and H. C., by their Next Friend BARBARA WEINER,
individually and on behalf of all others similarly situated,

Plaintiffs,

05 Civ. 2986 (TPG)

- against -

JOHN MATTINGLY, in his official capacity as Commissioner of the New York City Administration for Children's Services, and JOHN JOHNSON, in his official capacity as Commissioner of the New York State Office of Children and Family Services,

Defendants.

**DECLARATION IN SUPPORT OF
MOTION OF PLAINTIFFS A.C. AND H.C.
FOR PERMISSION TO FILE
SECOND AMENDED COMPLAINT**

JENNIFER BAUM declares as true under penalty of perjury, pursuant to 28 U.S.C. § 1746, that:

1. I am a staff attorney at the Legal Aid Society, Civil Division, one of the attorneys of record for the plaintiff children in this action.

2. I make this declaration in support of the children's motion for permission to file a Second Amended Complaint in this action.

3. The proposed Second Amended Complaint makes the following changes to the Amended Complaint filed by A.C. and H.C., dated June 17, 2005:

- The caption is changed to reflect that defendant Mattingly is the

Commissioner of the New York City Administration for Children's Services;

- In the first sentence of ¶2, the title of the agency is corrected to read "The New York City Administration for Children's Services ("ACS")";
- ¶54 is changed to update the number of days the children have been removed from their original placement with Ms. Balbuena from 167 to 192;
- The regulatory citations in ¶67 are corrected to read " 18 N.Y.C.R.R. §§ 443.5(b) and (c)";
- Paragraph numbering and lettering beginning on page 19 is adjusted to eliminate confusion; and
- The following language is added to newly renumbered ¶(3)(A) in the Request for Relief on page 19, so that the paragraph now reads as follows (new language underlined):

"(3) Issue preliminary and permanent injunctions against defendants MATTINGLY and JOHNSON:

(A) directing that class members who remain in foster care shall be removed from their kinship foster home on an emergency basis only when there is imminent risk to the child's health or safety and with constitutionally adequate notice at the time of the removal, and thereafter be provided with a constitutionally adequate and meaningful opportunity to be heard on the removal on an expedited basis;"

4. A copy of the proposed Second Amended Complaint is annexed hereto as Exhibit A.
5. A copy of the written consent of defendant MATTINGLY to the filing of the proposed Second Amended Complaint, dated July 12, 2005, is attached hereto as Exhibit B.
6. WHEREFORE, it is respectfully requested that this Court grant plaintiff children's motion for leave to file a Second Amended Complaint.

I hereby declare that the foregoing is true and correct. Executed on July 14, 2005.

JENNIFER BAUM (JB4030)